

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: <u>8/9/10</u>
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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OWEN CLARKE,

Petitioner,

-against-

BRUCE YELLECH,

Respondent.

-----X

09 Civ. 8218 (WHP) (GWG)

ORDER

WILLIAM H. PAULEY III, District Judge:

Petitioner pro se Owen Clarke ("Clarke") petitions for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 challenging his conviction in New York State court. This action was referred to Magistrate Judge Gabriel W. Gorenstein. On July 9, 2010, Magistrate Judge Gorenstein issued a report and recommendation (the "Report") recommending that Clarke's petition be denied. The time to file objections or request an extension of time has passed, and neither party objected or requested additional time.

This Court has reviewed Magistrate Judge Gorenstein's thorough and well-reasoned Report and finds that it is not facially erroneous. See 28 U.S.C. § 636(b)(1). Accordingly, this Court adopts the Report in its entirety and denies Clarke's petition. Because Clarke has not made a substantial showing of the denial of a constitutional right, a certificate of appealability will not be issued. See 28 U.S.C. § 2253(c)(2). In addition, this Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith. See Coppedge v. United States, 369 U.S. 438, 444 (1962). The Clerk of the Court is

directed to terminate all pending motions and mark this case as closed.

Dated: August 6, 2010
New York, New York

SO ORDERED:


WILLIAM H. PAULEY III
U.S.D.J.

Copies Mailed to:

Magistrate Judge Gabriel W. Gorenstein

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